

REMARKS

The office action of September 11, 2007 has been carefully reviewed. Claims 1-57 are pending. Claims 1, 2, 4, 8, 9, 12, 16-28, 34-39, 42, 43, 50, 51, 56-58, 66, and 69 have been amended. Claims 6, 7, 14, and 15 have been canceled.

INFORMATION DISCLOSURE STATEMENT

In the office action, the Examiner requested indication by the Applicants as to whether the "Technical Reports dated 2000 and 2001 provided in an IDS on April 11, 2005 were disclosed to the public. Applicants believe the "Technical Reports dated 2000 and 2001" to which the Examiner refers were not disclosed to the public.

SPECIFICATION

The Examiner indicated that all abbreviations in the specification should be accompanied with complete descriptions to the terms when first mentioned. Applicants have amended the specification to address this issue.

The Examiner alleges that equations (1)-(4) on pages 51, 55, and 58 of the specification of the subject application contain typographical errors. These equations have been amended in the specification to address the Examiner's issues.

CLAIM OBJECTIONS UNDER §112, FIRST PARAGRAPH

Claims 1, 8, and 25 have been amended to address the Examiner's objections. Applicants believe the amendments made to claims 28, 42, and 43 address the Examiner's objection of claims 42-49.

CLAIM REJECTIONS UNDER §112, FIRST PARAGRAPH

The Examiner rejected claims 1-69 under 35 U.S.C. §112, first paragraph, alleging that the specification while being enabling for the method, which is either based on known IR spectrum of the organic compound or comprises the step of obtaining the IR spectrum of the organic compound or comprises the step of obtaining the IR spectrum of the organic compound, and which also comprises the step of filtering out selected wavelength bands, does not reasonably provide enablement for the method, in which these steps disclose. Claims 1, 9, 17, 23, 24, 26-28, and 57 have been amended to address this rejection.

The Examiner rejected claims 1-3, 6-11, and 16-22 under 35 U.S.C. §112, first paragraph, alleging that the specification, while being enabling for the method which comprises [a] calibration step and using a reference compound or a reference value, does not reasonably provide enablement for the method, in which steps are absent. Claims 1, 9, and 17 have been amended to address this rejection.

The Examiner rejected claims 19-22 under 35 U.S.C. §112, first paragraph, alleging that the specification, while being enabling for the method, in which the mean-centered concentration of glucose C_g is preliminarily obtained by an independent method, does not reasonably provide enablement for the method, in which C_g is not preliminarily obtained. Claims 19-22 have been amended to address this rejection.

CLAIM REJECTIONS BASED ON §112, SECOND PARAGRAPH

The Examiner rejected claims 1-69 under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim subject matter which Applicants regard as the invention. The Examiner provided a litany of rejections, which are addressed below in sequential order as presented in the office action.

The Examiner alleges that the preamble of "all independent claims is not quite clear." Claims 1, 9, 17, 23, 24, 26-28, and 57 have been amended to address this issue.

The Examiner alleges an essential step of "selective filtering" is omitted from "step (a)" of the original pending independent claims. Claims 1, 9, 17, 23, 24, 26-28, and 57 have been amended to address this issue.

The Examiner noted various claims, such as claims 1 and 23, did not use conventional language. Claims 1, 9, 17, 23, 24, 26-28, and 57 have been amended to address this issue.

The Examiner alleges that in regard to "step (b)" of the original pending independent claims, it is not clear as to "whether this is an active method step." Claims 1, 9, 17, 23, 24, 26-28, and 57 have been amended to address this issue.

The Examiner rejected claim 4, alleging that it is not apparent as to "which reference wavelength band integrated absorbance value" is meant in the claim. Furthermore, the Examiner is unclear as what the term "first" is relative to in "first wavelength band integrated absorbance value." Applicants traverse the rejection of claim 4. Applicants direct the Examiner to paragraphs [00179]-[00180] on pages 60-61 of the specification of the subject application for an illustrative example of a "wavelength band integrated absorbance value." Furthermore, Applicants believe the term "first" is clear and that it merely distinguishes a "wavelength band integrated absorbance value" from another "wavelength band integrated absorbance value," such as a "second" one of claim 5.

The Examiner rejected claims 6-8 and 9-26 alleging that recited ranges of wavelengths are unclear and indefinite. Claims 6, 7, 14, and 15 have been canceled. Claims 8-13 and 16-26 have been amended to address the rejection.

The Examiner rejected claim 27 alleging certain terms were unclear. Claim 27 has been amended to address this rejection.

The Examiner rejected claim 28 alleging that it contains “contradictory subject matter.” Claim 28 has been amended to address this rejection.

The Examiner rejected claims 34-36 and 37-39 alleging that it is not apparent as to whether different embodiments comprise different ways of purification of the biological sample are recited in the claims, or are just different degrees of purification. Claims 34-39 have been amended to address these rejections.

The Examiner claims 42-48 alleging that the claims do not appear to recite any active steps. Claims 28, 42, and 43 have been amended to address this rejection.

The Examiner rejected claim 50, alleging that it is not apparent to modulate at least part of a current, voltage, or frequency. Claim 50 has been amended to address this rejection.

The Examiner rejected claim 51 alleging that it was “unclear as to where ‘the periodic insertion of infrared blocking material’ occurs and what the blocking is.” Claim 51 has been amended to address this issue.

The Examiner rejected claims 52-55 alleging that the content of each claim is unclear. Applicants respectfully traverse this rejection and believe the claims do not require further language to be added. The Examiner appears to be asking for a definition of a claim term, “second modulation technique” and not that the claim term fails to point out and distinctly claim the subject matter which the applicant regards as his invention. Applicants believe the Examiner has misapplied §112, second paragraph and respectfully request that the Examiner withdraw the rejection. Applicants direct the Examiner to paragraphs [00153]-[00156] on pages 48-50 of the specification if clarification is required.

The Examiner rejected claim 56 for failing to provide proper antecedent basis. Claim 56 has been amended to address this rejection.

The Examiner provided a blanket rejection of claims 57-69 as having “the same problems as those outlined for the preceding claims.” Claims 57, 58, 66, and 69 have been amended to address these rejections in manners similar to those previously discussed.

CLAIM REJECTIONS BASED ON §102

A. The Rejections of Claims 1, 9, 17, 23, 24, 26, and 27

In the official action, the Examiner rejected claims 1, 9, 17, 23, 24, 26, and 27 under 35 U.S.C. §102(e) as being anticipated by U.S. Pat. No. 6,484,044 to Lillienfeld-Toal. Applicants have amended claims 1, 9, 17, 23, 24, 26, and 27 to include limitations in regard to “optical” detection, which is neither taught nor suggested in Lillienfeld-Toal. In light of these amendments, Applicants respectfully believe that the Examiner should withdraw the rejections of claims 1, 9, 17, 23, 24, 26, and 27.

B. The Rejections of Claims 2-8

Claims 2-8 are dependent upon claim 1. As a result, the rejections of claims 2-8 should be withdrawn for at least the reasons discussed in regard to claim 1.

C. The Rejections of Claims 11-16

Claims 11-16 are dependent upon claim 9. As a result, the rejections of claims 2-8 should be withdrawn for at least the reasons discussed in regard to claim 9.

D. The Rejections of Claims 18-22

Claims 18-22 are dependent upon claim 17. As a result, the rejections of claims 18-22 should be withdrawn for at least the reasons discussed in regard to claim 17.

E. The Rejection of Claim 25

Amended claim 25 is dependent upon claim 24. As a result, the rejection of claim 25 should be withdrawn for at least the reasons discussed in regard to claim 24.

CLAIM REJECTIONS BASED ON §103

A. The Rejection of Claim 10

In the office action, the Examiner rejected claim 10 under 35 U.S.C. §103(a) as being unpatentable over Lillienfeld-Toal. Claim 10 is dependent upon claim 9. As a result, the rejection of claim 10 should be withdrawn for at least the reasons discussed in regard to claim 9.

B. The Rejection of Claims 28 and 57

In the office action, the Examiner rejected claims 28 and 57 under 35 U.S.C. §103(a) as being unpatentable over any one of a number of references (Heise et al., Bhandare et al., Budinova et al., or Vonach et al.) in view of U.S. Pat. No. 5,460,177 to Purdy et al. Claims 28 and 57 have been amended to include limitations neither taught nor suggested in any of the references relied upon by the Examiner. In particular, claims 28 and 57 have been amended to include glucose absorbance bands having thicknesses of at least 140 nm. The references relied upon by the Examiner require particular wavelengths to be detected and are not capable of analyzing absorbance bands of the thicknesses covered by amended claims 28 and 57. As such, the Examiner's rejections of amended claims 28 and 57 should be withdrawn.

C. The Rejections of Claims 29-56

Claims 29-56 are dependent upon claim 28. As a result, the rejections of claims 29-56 should be withdrawn for at least the reasons discussed in regard to claim 28.

D. The Rejections of Claims 58-69

Claims 58-69 are dependent upon claim 57. As a result, the rejections of claims 58-69 should be withdrawn for at least the reasons discussed in regard to claim 57.

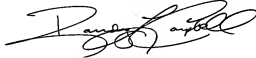
CONCLUSION

Applicant believes that the present application is now in condition for allowance and such action is respectfully requested. If there are any questions or comments that would speed prosecution of this application, the Examiner is invited to call the undersigned at (317) 229-3106.

It is respectfully requested that, if necessary to effect a timely response, this paper be considered as a Petition for an three-month Extension of Time sufficient to effect a timely response and that shortages in fees, if any, be charged, or any overpayment in fees credited, to the Account of Barnes & Thornburg, Deposit Account No. 10-0435 with reference to file 3220-73780.

Respectfully submitted,

BARNES & THORNBURG LLP

A handwritten signature in black ink, appearing to read "Randy L. Campbell", with a stylized flourish at the end.

Randy L. Campbell
Attorney Reg. No. 57,223

Indianapolis, Indiana
317-229-3106